Popular Government

Published by the Institute of Government / The University of North Carolina at Chapel Hill

Summer 1983

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Popular Government

Vol. 49/No. 1 Summer 1983

INSTITUTE OF GOVERNMENT
The University of North Carolina at Chapel Hill

Cover design: C. Angela Mohr
Photos: UNC Photo Lab; N.C. Land Records Management Program

Articles

Features

Popular Government (ISSN 0032-4515) is published four times a year (summer, fall, winter, spring) by the Institute of Government, Knapp Building 059A, The University of North Carolina at Chapel Hill, Chapel Hill, N.C. 27514. Subscription: per year $6.00. Second-class postage paid at Chapel Hill, N.C.

Achieving Uniformly High Quality in North Carolina's Law Enforcement Training

Randolph B. Means

Editor's Note: The following article—like all articles in Popular Government*—expresses the author's point of view, not the position of the Institute of Government.*

In the Winter 1983 issue of *Popular Government*, I traced the history of law enforcement training in North Carolina. As that article described, the state's training programs for law enforcement officers have increased and improved dramatically since they began in 1921. North Carolinians are justifiably proud of the state's progress in this area. There are some 17,000 law enforcement officers in North Carolina who work in over 500 state and local agencies. Training them is no small or easy task. The present training system is large and strong but gangly, uncoordinated, and extremely fragmented. It allows but does not guarantee timely and high-quality professional training. Improvement efforts should be aimed at *assuring* high-quality training by promoting maximum coordination of existing resources.

The greatest problem in law enforcement training in this state is that so many people, agencies, and institutions are involved in the process without adequate centralized support and coordination. With our limited human and fiscal resources, we cannot afford fragmentation and duplication of effort. Nor can we afford not to use to the fullest the fine resources that *are* available.

A state law enforcement training center

A 1967 report to the Governor by Albert Coates, former director of the Institute of Government, strongly advocated a central clearinghouse for law enforcement information and training, with a complete staff of highly skilled law enforcement educators.[1] Describing this staff as a unifying "central core," Coates advised putting it "at the service" of the community colleges and other agencies for training a large staff of regionally based instructors. This move would, he said, "bring about a uniformity of standards" by "lifting the poorest practices to the level of the best."[2]

The author, a police attorney for the City of Charlotte, was formerly chairman of the legal department at the North Carolina Justice Academy.

1. Albert Coates, "A Progress Report to Governor Dan Moore on a Coordinated Training Program for Law Enforcement Officers in North Carolina" (University of North Carolina, April 27, 1967). This "staff," under Coates's plan, would also be the faculty of a four-year law enforcement degree program in the state university system. Coates suggested an interlocking of basic police training, a two-year degree curriculum, and a four-year degree program into an educational continuum.

2. *Id.* at 21-22.

Central to Coates's plan was a "train-the-trainers" concept. That is, the staff of the central facility would provide assistance and training to instructors who would in turn provide training in other components of the delivery system. This concept is the key to significant future improvement in the quality of local and regional law enforcement education and training. The problem in law enforcement training in North Carolina is not that it is all poor—much of it is excellent—but that it is inconsistent in quality. The goal must be to assure universally high standards in law enforcement training by "lifting the poorest practices to the level of the best."

It is interesting to compare the Coates proposal with the results of a study of North Carolina police training conducted in the late 1960s by the Organization for Social and Technical Innovation (OSTI) at the request of the Governor's Committee on Law and Order (predecessor of the Governor's Crime Commission). The OSTI study led to a report[3] that also suggested a state law enforcement training center that would be responsible for (among other things):

(1) Training trainers to be deployed throughout the state and region;
(2) Designing, providing, and evaluating new and experimental forms of training;
(3) Carrying out training-related research and evaluation studies.

The center would serve to assure the quality of local and regional instruction by training a pool of certified instructors and regional coordinators. The persons trained would be certified on the basis of both specific knowledge of the subject matter and more general instructional skills.

It is significant that both the Coates and OSTI proposals, though somewhat different in orientation, feature a central facility and staff for training regionally based trainers. Both proposals contemplated that the center would do research, develop written materials, and provide technical assistance and evaluative services. It would *not* train local law enforcement officers. Rather, it would provide "tools" to allow the rest of the training system to function more efficiently and at a higher level.

This concept is very similar to recent recommendations for improving the training of public school teachers. In seeking ways to achieve the goals of the state's Quality Assurance Program for teachers, a joint committee of the State Board of Education and the University of North Carolina Board of Governors recommended a unified educational support system that included a technical assistance program to spread new knowledge, new materials, and special skills to teachers in local systems.[4] It was suggested that "the best way to train teachers in the skills of teaching is to use outstanding or 'master' teachers as models."[5] A state training center for law enforcement would function in much the same way—providing technical assistance and using "master teachers" as models to train the trainers. The branches of the training system would then have a centralized source of strength and support that is now missing.

North Carolina has the necessary resources to develop such a center. It could be created either by expanding the efforts and staff of the North Carolina Justice Academy or by forming a full-time consortium of staff from the Justice Academy, the Institute of Government, and the State Department of Community Colleges. A central training staff could be housed at any of several existing facilities.

The Justice Academy already performs some of the functions recommended for a state law enforcement training center. The Academy gives a large amount of technical help to local agencies, especially in the area of training, and it increasingly provides analytical and evaluative services. It also produces some written materials for use in its classroom training. But most basic law enforcement training in North Carolina—96 per cent of the students trained in 1981[6]—is provided by community colleges and police agencies other than the Justice Academy, and the Academy is not now responsible for assuring the quality of training apart from its own programs.

For the state's law enforcement training system to move forward, a state center is needed that differs from the Justice Academy as it now is. The state center, in my view, should devote itself to building stronger local and regional training programs, emphasizing: (1) high-quality classroom instructors, (2) high-quality teaching texts and materials, and (3) evaluation to control the quality of training. At present no agency meets these needs, although there are occasional "train-the-trainers" efforts by the Academy in narrowly specified areas (such as radar training), and the Institute of Government periodically publishes and updates several valuable texts on criminal law for law enforcement officers. Neither the Academy nor the Institute operates a comprehensive program to meet pressing local needs for better instructors, better training materials, and evaluation of training quality.

3. Organization for Social and Technical Innovation and Arthur D Little, Inc., *Police Training in North Carolina: Report and Recommendations* 25 (1970) (hereinafter OSTI).

4. For full discussion of this program, see White, *The Quality Assurance Program for Preparing Teachers in North Carolina*, 47 POPULAR GOVERNMENT 7 (Winter 1982); Pope, *QAP: Recommendations on Improving the Quality of Teachers*, 47 POPULAR GOVERNMENT 13 (Winter 1982).

5. White, *op. cit. supra* note 4, at 10.

6. See Means, *Law Enforcement Training in North Carolina*, 48 POPULAR GOVERNMENT 41 (Winter 1983).

Regional training centers

Since the late 1960s, several proposals have been made that a system of regional training centers be established to enhance local law enforcement training in this state.[7] Some regionally based training efforts[8] are now going on, but they are largely piecemeal responses to specific problems, rather than systematic efforts to assure higher-quality law enforcement training throughout the state. In a well-coordinated system of regional training centers, consistency in quality could be furthered by the use of pooled regional resources as well as by direct technical assistance and training of regional training center staffs by faculty of a state center. To quote the OSTI report: "The regional level ought to be the principal level for delivering most forms of law enforcement training to officers in local agencies . . . . It provides sufficient scale to enable basic training and some specialized training to be delivered efficiently, and yet it avoids the remoteness and generality which would result from an over-centralized delivery system."[9]

I suggest that North Carolina establish a system of approximately ten regional training centers strategically located at selected community colleges (and possibly at large municipal police academies). These centers would be the sole providers of certified basic and in-service training. Each regional center would have a "core" teaching staff of from three to ten full-time professional instructors who had themselves received specialized training at the state training center. Much of the written material they would use would be developed by the central staff. Thus the instructional personnel of these regional training centers would receive consistently accurate, up-to-date information.

Each regional training center could be coordinated and directed by a local advisory board, with oversight by the Department of Community Colleges and the state-level Criminal Justice Education and Training Standards Commission. That Commission could adopt standards and regulations for the Standards Division of the Department of Justice to use in certifying regional training programs and instructors. High minimum standards of program quality could thus be established and maintained.

Another benefit of a regional training system would be the regular availability of basic police training courses. Courses could be offered more frequently, because a larger service area would mean that there would more often be a sizable group of new officers who needed the training. Basic courses might be provided on perhaps a quarterly basis. Starting dates staggered among regional training centers would make it possible for a local department to enroll a recruit in basic training immediately, if necessary, even when the basic course was not then being offered in the department's regional service area.

Still another advantage of the system would be timely in-service training at each regional training center. Few small or medium-sized departments in North Carolina have full-time training officers or regular, annual retraining programs for their personnel. A regional training center could easily provide in-service training that would otherwise be unavailable or prohibitively expensive to offer locally. In addition, a regional training center could provide local agencies with technical help, personnel assessment services, certified advanced training, and "employment pools" of already trained prospective officers who were available for immediate service within a region.

We cannot afford fragmentation and duplication of effort in law enforcement training. Nor can we afford not to use to the fullest the fine resources that* are *available.

In 1980 the State Attorney General began to make formal proposals to develop regional training centers. The Standards Commission chose not to promote the concept in the 1981 General Assembly. Nevertheless, in January 1981 the Attorney General's Office filed a report with the Commission that again advocated a regionally based delivery system,[10] and the Attorney General renewed the proposal in a presentation to the Commission in April 1982.[11]

North Carolina is the only South Atlantic state that has not consolidated its law enforcement training into either a central facility or regional academies.[12] After a recent full study of Virginia's delivery system for law enforcement training, that state's senate recommended that

7. Coates, *op. cit. supra* note 1, at 38-44; Phillip J. Lyons (Assistant to the Attorney General on Criminal Justice Affairs), Proposal to Establish Regional Training Centers: Final Report to the North Carolina Criminal Justice Education and Training Standards Commission, January 30, 1981; address by Attorney General Rufus L. Edmisten to the Criminal Justice Standards Commission, April 30, 1982.

8. An example is the Coastal Plains Academy near Wilson.

9. OSTI, *op. cit. supra* note 3, p. 39.

10. Lyons, *op. cit. supra* note 7.

11. Edmisten, *op. cit. supra* note 7.

12. Lyons, *op. cit. supra* note 7, at "Summary and Conclusion."

Virginia's eleven regional academies be consolidated to form eight state-funded regional training centers.[13]

Subject-matter certification

In recent years great concern has been expressed about the quality of teaching in our public school systems.[14] Because they are entrusted with the training and development of our children, public school teachers are perhaps our most important public employees.

But relatively little has been said about the quality of those who teach our law enforcement officers, also a vitally important group. Human and monetary risks associated with inadequate law enforcement training are enormous. It is remarkable that there is now no mechanism to insure that our law enforcement trainers know the subjects they teach.

North Carolina does have a certification requirement for instructors who teach in accredited basic training programs for police.[15] Certification is obtained from the Standards Division of the North Carolina Department of Justice, pursuant to regulations established by the Criminal Justice Education and Training Standards Commission. A general certification requires completion of a Commission-approved instructor-training program of at least 70 hours. But such programs concern only general instructional skills—they do not deal at all with the *subject matter* that an instructor will teach. Yet the general certificate permits the instructor to teach any and all subject matter in a basic training program, subject only to the discretion of the individual school director. In order to assure high-quality instruction, instructors should also be certified as to knowledge of the subject matter they will teach. Such certification should come only after the prospective trainer has participated in a training program (including testing) that deals with the subject that he is to teach. The program should be provided by a state training center, and it should be required of all instructors in accredited basic and in-service training programs.

Pre-service training

North Carolina law requires that a new law enforcement officer complete a basic training course of at least 240 hours—but not necessarily before he enters actual service.[16] The present state standards allow a new officer to take his basic training after he has already begun to exercise law enforcement authority. In fact, North Carolina law allows him 12 months (extendable to 18 months) to complete the basic training.[17] It is not uncommon, in some agencies and some geographical areas, for a new officer to be armed with both a firearm and authority to use it, yet be without any meaningful training on when and how the weapon may be lawfully employed. The same is true with regard to the use of emergency vehicles and nondeadly force. This situation creates unreasonable hazards to citizens, as well as to the new officer. For him, his department, and his local government, the potential for legal liability is huge.

Local officials must understand that compliance with minimum training standards does not give the law enforcement administrator and the local government immunity from legal liability.[18] Such compliance is some evidence of "no negligence," but it does not dispose of the issue. Neither will doing as much as or more than other agencies have done necessarily protect the agency head or the local government from liability. It is possible for a court to find that, even though all agencies use certain training practices, these practices nevertheless fall short of reasonable safeguards. General practice does not necessarily establish a legal standard of care.[19]

The need for pre-service firearms training is particularly acute. Without such training on how and when to shoot, the police administrator is staking his personal liability on the judgment and self-control of a young, untrained officer who is exercising virtually undirected discretion. The following advice states the problem very clearly:

> Courts have been particularly willing to find liability for negligent failure to train in cases involving the use of a firearm by untrained policemen . . . . *It cannot be emphasized too strongly that the police administrator who permits an untrained officer to go onto the street armed is courting disaster insofar as civil liability for negligent failure to train is concerned.* [Emphasis added.][20]

Furthermore, a law enforcement agency has an ethical obligation to the novice officer and to the community not to thrust him into a new world of life-and-death responsibility without reasonable guidance. Citizens have a right to expect that their local government will

13. *Report on Law Enforcement Training to Governor and General Assembly of Virginia*, Senate Document No. 7, Commonwealth of Virginia, Richmond, Va. 1980.

14. See, e.g., White, *op. cit. supra* note 4.

15. 12 N.C.A.C. § 9B.0300.

16. 12 N.C.A.C. § 9B.0205.

17. N.C. Gen. Stat. § 17C-10.

18. *See, e.g.*, Popow v. City of Margate, 476 F. Supp. 1237 (D.N.J. 1979).

19. *See, e.g.*, The T. J. Hooper, 60 F.2d 737 (2d Cir. 1932).

20. AELE Workshop on Police Civil Liability and the Defense of Misconduct Complaints 12-5 (San Francisco: Americans for Effective Law Enforcement, Inc., 1980).

not arm police personnel with authority and weapons without initial and continuing assurance that both will be used properly. That it is an agency's intention to get an officer trained *soon* is little consolation to the person who is injured by that officer *today*.

The need is to improve the quality of North Carolina's law enforcement training by allowing full use of available resources through a stronger system of centralized support.

The best practice would be to require that a recruit complete the entire certified basic police training course before he enters active service as an officer. Some administrators have serious reservations about such a requirement, apparently believing that it would present local governments with insurmountable fiscal and logistical problems. If it is determined that a requirement of *full* pre-service training is impossible, at a minimum it should be required that an officer receive pre-service training in areas that might be described as "high risk." The proper length of such instruction is open to debate, but topics that should be a part of any pre-service training package include use of firearms and other deadly force, use of emergency vehicles, and the laws of arrest, search, and seizure.

The Criminal Justice Education and Training Standards Commission recently decided to take a giant step forward in this important area. Last fall it voted to establish mandatory pre-service training, and at this writing it was conducting public hearings to help identify and evaluate the various shapes such training could take. This action represents a commitment to assuring a higher level of training—and professionalism—than has ever before existed in this state.

In-service training

Because of its close relationships to law and technology, law enforcement is a fast-changing profession. The skills and knowledge that were enough last year will not suffice this year or next. Continuing education and training are essential. But for most personnel of the smaller local law enforcement agencies, regular in-service refresher training is virtually nonexistent. When it occurs at all, it is usually sporadic and piecemeal. Large local agencies and the major state agencies usually provide regular in-service training, but most small agencies cannot afford to do so.

The need for better in-service training is another good reason for establishing regional training centers. Pooled resources would make it possible to devise alternative ways to provide otherwise unavailable in-service training. All officers of every agency could receive periodic retraining.

The frequent changes in criminal law and procedure call for yearly in-service training of law enforcement personnel, and a multitude of other topics commend themselves to frequent review. Each year the staff of the (proposed) state center could develop a model in-service training package, perhaps 24 hours in length, that provides both an instructor's manual and written training aids. The center could also train agency or community college trainers, who would then return to the field to deliver in-service instruction. Such a system would assure periodic retraining of consistently high quality.

The General Assembly should move quickly to require at least 40 hours of in-service training annually for all sworn law enforcement personnel. Twenty-four of these hours should be devoted to subject matter needed by all officers and prescribed by the Standards Commission. This instruction should be developed and packaged by a state law enforcement training center. The remaining sixteen hours (or more, at the discretion of each agency) could be tailored by the respective regional training centers to the particular needs of personnel within their service areas.

Conclusion

Three steps must be taken now to put law enforcement training on the right path:

(1) *Establishment of a state law enforcement training center* that will provide (1) a central clearinghouse for training information and services and (2) training for field trainers who will teach in regional centers and elsewhere.

(2) *Establishment of regional training centers* to provide high-quality training and other technical services to local law enforcement personnel through pooled regional resources and aid and direction from the state center.

(3) *Further mandates by the Criminal Justice Education and Training Standards Commission* requiring that training be timely (pre-service) and continuing (in-service) and that teaching be done by persons who have accurate, up-to-date information to impart (subject-matter certification).

(continued on p. 12)

PINning It All Together—A New Land Records Management System

Donald P. Holloway and David H. Rogers

With carefully drawn maps that show all discernible natural and man-made features and all property lines, relatively inexpensive computers, and an integrated information management system, North Carolina counties can make all the many pieces of land-related information available to every unit of county government—and to the public as well. The State Land Records Management Office will help them do so.

Of all the records kept by local governments, perhaps none are more important to them than land records. Several county departments are almost completely land-oriented. Over half of the county's total income is derived from taxation of real property, and the tax supervisor's and the tax collector's offices are basically concerned with listing and appraising real estate and billing and collecting taxes on the land. The register of deeds' office primarily deals with land-related documents, even though it does record other documents like corporate charters, birth certificates, and so on. City and county planning departments use maps and other data on land every day, and water and sewer departments rely on maps and other geographic and demographic data in maintaining and planning their systems. Finally, public safety departments of both cities and counties must have precise land-related information, because their greatest responsibility comes in dispatching police or fire personnel to specific addresses in the community.

In this day of increasing complexity, it has become evident that some way must be found to make all of this land-related information quickly and easily available to the governmental agencies and the private individuals and business enterprises that need it. It was in response to this need that the General Assembly established the North Carolina Land Records Management Program (LRMP) in 1977.[1] The LRMP helps counties set up modern land records management systems using the computer technology that has become available to local governments during the last decade.

The Land Records Management Program is part of the Office of Administrative Analysis in the State Department of Administration. It has a staff of three persons, each of whom has particular areas of expertise that apply to the program. The LRMP receives funds from the General Assembly (at present, $325,000 per year) to be used as grants-in-aid to the counties that participate in a land records modernization project.

Participation in a project is entirely voluntary for a county. It requires considerable commitment on the county's part in terms of money, time, and personnel. Once the board of county commissioners decides that the county could benefit from a modernized land records system and is willing to make this commitment, it contacts the LRMP, which then is authorized to help plan the program.

Mr. Holloway is Director of North Carolina's Land Records Management Program, which is part of the Office of Administrative Analysis in the North Carolina Department of Administration. Mr. Rogers is an attorney at law and a consultant to the Land Records Management Program.

1. N.C. GEN. STAT. § 102-15.

First of all, the LRMP advises the county to form an ad hoc planning group around the officials who will make the key decisions and see the program through to conclusion. It also urges that the commissioners appoint a land records advisory committee to augment the official planning group's work. This committee enlarges the circle of involvement by including people from the community who will benefit from the modern maps and information system—the local bar association, the board of realtors, land surveyors and registered engineers, the chamber of commerce, and industry recruiters. These people will have important suggestions to make in regard to the system, and they will reinforce the commissioners' decision to undertake the modernization project by demonstrating the community's interest and support.

This careful planning is essential in view of the project's impact on the county. The first step in the project—covering the county completely with new, large-scale maps—is not done quickly. The average North Carolina county has some 30,000 parcels of land, and it will spend approximately $600,000 to have this area mapped. At least three years will go by from the time the board of commissioners undertakes the project until the finished map sheets are delivered. The LRMP's role, therefore, is to help the county carry out this complex process by offering it technical aid as well as a limited amount of "matching funds." These grants constitute about 5 per cent of the project's annual total cost.

Land records modernization is well worth the effort. Thus far 44 counties have undertaken it. (For an article on Orange County's project, see "Computerizing Land Records in Orange County" by Roscoe Reeve in the Summer 1981 issue of *Popular Government*.)

The extent to which elected officials and employees of city and county governments use and rely on land records places a premium on the accuracy, completeness, and efficiency of these records. Unfortunately—and through no fault of the officials responsible for maintaining land records—the system has heretofore been rife with problems. For the first 150 years of recordkeeping, when the number of transactions was low and manageable, surveying and map-making were rudimentary skills that often relied on imprecise narrative descriptions for a parcel's boundaries. Then, in the last half-century, when advances in surveying and mapping techniques made it possible gradually to remove the gross inaccuracies in the body of land records, the volume of land-related transactions and governmental actions swamped the manual record-keeping procedures that characterized city and county management before the 1970s.

Relatively inexpensive computers and advanced information-management systems (IMS) for complex data bases like land records arrived on the scene simultaneously with totally reliable techniques for surveying and describing land. Local governments are now able to bring the methods by which they acquire and use their land records into the 1980s.

A modern land records management program has two main parts: (1) preparing an accurate set of maps, including both base maps and cadastral maps; (2) systematically collecting and using the information generated by the scores of daily public and private transactions concerning the land.

The LRMP is concerned with both aspects, in the order given. For local government the payoff comes from the second area—when the fully computerized land records data base becomes a powerful management tool for government officials. But computerized land records data cannot live up to their promise if they are compiled from faulty information. And so the first area of work, mapping the county, is where the LRMP begins.

Preparing up-to-date, accurate maps for the purposes of an automated land records IMS is a demanding process. A base map is developed from aerial photographs (Fig. 1), taken when the deciduous trees are bare. Produced at scales of 1″=100′, 1″=200′, or 1″=400′, it shows all of the prominent and discernible natural and man-made features on that portion of the ground covered by the map sheet, such as fields, woods, bodies of water, highways, railroads, buildings, and so forth.

After the new base maps are produced, overlays are made at the same scale as the base map and registered to match that map. These overlays are called cadastral (from the French "cadastre") or "property" maps. The cadastral map shows the boundaries of all land parcels as they are recorded in the register of deeds' office. Acreages and identifying numbers for all parcels are also drawn on it.

The first step in producing a cadastral map is done by researchers who comb the register of deeds' books for every deed pertaining to any part of the land covered by the subject map. Once this deed research is completed, all boundary information is entered into an automated plotter, which computes and draws an exact, to-scale figure of the parcel (Fig. 2). These figures are traced on a work copy of the respective base maps, with the parcel corners and lines keyed to terrain features wherever possible. Typically, these parcel "figures" do not fit together precisely on the draft map, and any gaps or overlaps between

Figure 1

adjoining parcel boundaries must be reconciled. This reconciliation may be done by referring to "use lines" or by "field checking." "Use lines" like fences, roads, and streams are often relied on as visible evidence of where owners of adjacent property intend their common boundary to be. If necessary, mappers go "to the field" to explain to owners of neighboring property any major discrepancies as to the boundaries in their deeds, and they try to find the most nearly accurate boundaries possible under the circumstances.

The cadastral mapper cross-checks his draft map with the tax department's tax rolls to insure that no parcels have been omitted and that recent mergers and subdivisions of parcels have been picked up. Finally, the work copy of the base map is overlaid with a transparent plastic film (like Mylar) and the parcel boundaries are traced in black ink to make the finished product (Fig. 3). All other related data—including acreages, parcel dimensions, identifying numbers, and margin information—are inked onto the cadastral map sheet at this time.

The cadastral map shows the boundaries of every legally definable piece of land that it covers. Further, each parcel is assigned a ten-digit number called a PIN (parcel identifier number) that is unique to that piece of land; each parcel's PIN is inked directly onto the cadastral map inside the parcel boundaries. This PIN is the key to the whole plan and the critical link between the county's new maps and its land-related information management system.

Figure 2

Figure 3

The PIN

The logic behind the PIN system is this: Since all land-related data must refer to one or more parcels of land and since every parcel in the world is distinct and unique, the land data are organized by parcel. Until recently, deeds and deeds of trust were filed in the register's office according to the parcel owner's name and the names of other parties. The tax office assembled records by tax account numbers that were created by that office and used nowhere else in government. Zoning ordinances were developed and filed usually by street names or by sector designations and plat references. Fire and police vehicles were dispatched according to a specific street address—for example, 120 Park Avenue; but if the city had several streets with "Park" in the name, or if Park Avenue was in a brand-new subdivision not yet on anybody's maps, trouble could ensue. Planning officials and land-use planners used their maps daily; the patterns of growth, as photographed from the air or drawn onto maps, were clearly visible. But the wealth of demographic, financial, and governmental information that could be presented along with each geographical sheet under study was unavailable to the planner.

This disjointed approach to organizing data meant that governmental departments could not use the data available in other departments, except in the most cumbersome ways. And a private person who needed various items of information about a locality was shunted from pillar to post—one office to check the appraised value of a piece of land, another office for its zoning classification, yet another place to determine its owners, and so on.

When the Computer Age arrived, the obvious answer to such confusion was automated records technology. The county acquires (if it does not already have) a large-capacity computer to be used in a Distributed Data System (DDS) that

serves multiple agencies. An information system is then established that is keyed to individual parcel files. Each of these files is identified with a unique "tag" or "address" (that is, the PIN number) that the computer can find quickly.

Let's use as an example the parcel file for *your* house and lot. Our IMS builder—a land records specialist—begins this file with the present data on your property recorded under your name as owner. The property tax scroll gives your home mailing address and the size of your lot in acres and fractions of acres, a brief description of where the house and lot can be found (street address, rural route, etc.), and the township name.

Next our file builder obtains from the tax office your property's tax account number, its latest appraised value and the date of that appraisal, a list of improvements or buildings on the property, and the status of the tax account —listing, billings, and payments from year to year. In the register of deeds' office he finds the deed book and page numbers of the deed that passed ownership of the house and lot to you. With a little more digging, he finds and records the book and page numbers of the deeds that passed title to the next previous owner and the owners before him. He also finds two other important documents and keys them to the file—your deed of trust to the financer of your first mortgage and a recorded right of way to the State Department of Transportation along the front edge of your lot.

From the planning department the file builder obtains the zoning classification in your area and learns that your soil is 100 per cent red clay and that a small stream running through the rear of your property eventually flows into a feeder creek in the city's floodplain.

What has he accumulated? A pretty impressive collection of information, all pertaining to your parcel (house and lot), that will grow year by year.

Suppose your county has over 100,000 parcels. Imagine the totality of land-related information contained in those 100,000 files. Small wonder that an integrated information management system for a land-records data base had to wait until computers arrived in governmental offices. Fortunately, when it builds the total IMS for a county, the LRMP may find that the subparts—for instance, the tax records or the zoning information—have already been computerized. It is easy enough then to "feed" the computer tapes of these subsystems into the land records data base after PINs have been keyed into the parcel files of the respective subparts.

Geo-coding the parcel's PIN

Each parcel on the cadastral map is given a visible dot or spot in the approximate center of the parcel's mass. This so-called "visual centroid" is inked onto the cadastral map sheet. Then, on the basis of this centroid's geographical coordinates, a unique geo-coded ten-digit PIN is determined for every parcel. The PIN is inked on the map and stored in the computer (Fig. 4).

After the computer program is in place and the PIN assigned, every bit of land- or parcel-related or geographically based information that is available to the local government can be stored and reached through that PIN. Moreover, the inquirer need not even have the number. If he wants to know who owns a particular piece of property, he enters a street address at a "smart" terminal. The computer links the address to its PIN and then links the PIN to the property owner's name (and the address where he currently resides, if different from the parcel's address); back comes the owner's name to the inquirer at the terminal. Or, if the inquirer wants to know what property a particular person owns, he enters the person's name and (again through the PIN linkage) back comes the street address. If the person owns more than one parcel of land, back will come *all* PINs and all street addresses of his real estate holdings in that county.

As the parcel files were being built in the traditional way, each file (or parcel) had to be given an individual address both to insure that the incoming data were placed in the correct parcel file and to provide the means for rapidly retrieving the data. The parcel identifier number, or PIN, now serves as the parcel file's "address."

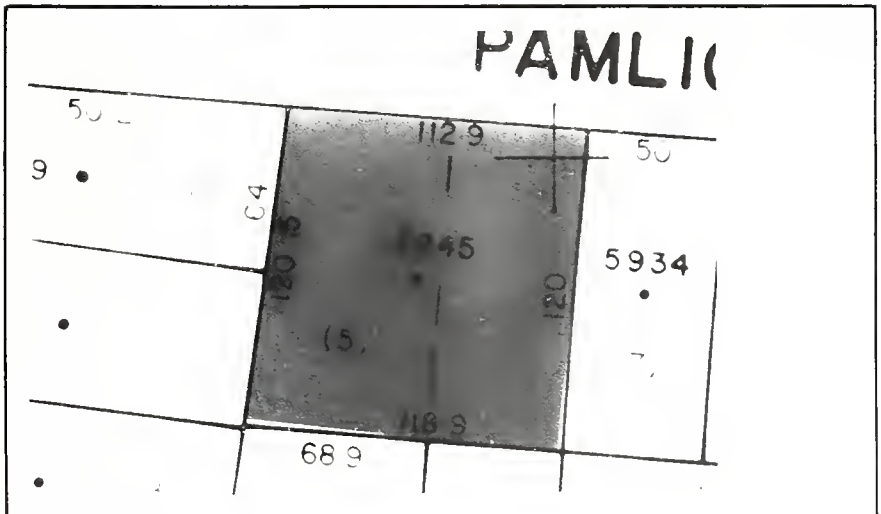


Figure 4

Making the land data available

Earlier reference was made to the "smart" computer terminals being used by various county or city governmental agencies and departments. The county's Distributed Data System (DDS) is a system for sharing certain information among all of the unit's departments and agencies while protecting each department's computerized records from being changed by other departments. Such systems are usually under the data processing department's control. Other involved departments and agencies will have at least one "smart" terminal that combines a cathode ray tube (CRT) screen, a keyboard, and a high-speed printer. Selected persons in an agency will be able to unlock the computer's "memory"—using a discrete security code that gives access to only that agen-

cy's files—in order to add, change, or update the data for which the agency is responsible. The tax office can enter tax data into the main frame but can do nothing to the zoning information; the zoning department can affect the zoning data but not any tax-related information, and so on. But by using simplified computer menus, *everyone* in the government, and the public as well, will be able to retrieve any data that may be stored in the main computer.

For example, a planning department official may query the computer: Give me the names and mailing addresses of all property owners whose land lies in whole or in part within a certain area covered by Map Sheet #6306 and has any ponds, lakes, or other bodies of water that are one acre in size or larger. He keys in the request—and within seconds receives the answer displayed on the CRT. He presses another key, and the high-speed printer prepares a "hard copy" of this information for him.

The uses of this marriage of maps PINs land records-IMS DDS are almost limitless. Some large metropolitan police departments have an electronically wired map of the complete city covering one entire wall. Amid a myriad of colored-coded lights and signals, a light of a particular color is situated at the PIN of every parcel covered by the map. A caller who reports an incident need only give the homeowner's name, *or* the address, *or* the telephone number from which he is calling. This information is keyed in by the desk sergeant, and the light goes on at the parcel's location on the wall map. If moving lights of another color on the wall map are used to represent patrol cars on duty, the police desk can very easily notify the nearest patrol car and guide it directly to the location of the incident.

With this IMS, a tax department can perform annual in-house reappraisals of all real property within its jurisdiction much more economically than an outside contractor can make reappraisals. Registers of deeds can offer local attorneys full-scale title searches in minutes, including hard-copy printouts of all deeds and other relevant documents in the chain of title (law firms have sometimes needed days to gather such information). The social services department can manipulate and analyze Census and other demographic data by region, zone, locale, or street or even within a given household. For a nominal amount a citizen can purchase a reprint of the base map or the cadastral map that covers his real property or a reprint of the two overprinted together—or he may obtain, again for a modest fee, a digitized (digitization is the automated transfer of information onto or from maps) "to-scale" printout of his own lot or parcel

Once Upon a Time
Writing Metes and Bounds Descriptions

Throughout the entire United States and in particular those areas which were never part of our public domain or private tracts, the majority of the land grants and subsequent deeds were irregular in shape. The boundaries went off in all directions, many following ridges, streams, trails or shores. The descriptions of these various parcels were by metes and bounds. During the early days of our country's development this type of description was entirely satisfactory, since land values were low and, in many cases, boundaries were marked by natural features of terrain. A classical example of such a description comes from the Probate Court records of Hartford, Connecticut, and is quoted below:

Commencing at a heap of stones about a stone's throw from a certain small clump of alders, near a brook running down off from a rather high part of the ridge, thence by a straight line to a certain marked white birch tree about two or three times as far from a jog in the fence going around said ledge and the "Great Swamp" so called, thence in line of said lot in part and in part by another piece of fence which joins onto said line, and by an extension of the general run of said fence to a heap of stones near a surface rock, thence aforesaid to the "Horn" so called and passing around the same aforesaid, as far as possible, to the "Great Bend" so called, and from thence to a squarish sort of jog in another fence so on to a marked black oak tree with stones around it and thence by another straight line in about a contrary direction and somewhere about parallel with the line around by the "Great Swamp" to a stake and stone mounds not far off from an old Indian trail, thence by another straight line on a course diagonally parallel, or nearly so, with "Fox Hollow" run, so called, to a certain marked yellow oak tree on the off side of a knoll with flat stone laid against it, thence after turning around in another direction and by a sloping straight line to a certain heap of stones which is by pacing just 18 rods more from the stump of the big hemlock tree where Phil Blake killed the bear, thence to the corner begun at by two straight lines of about equal length which are to be run on by some skilled and competent surveyor so as to include the area and acreage as herein set forth.

that shows the acreage to the nearest hundredth of an acre and the dimensions of each boundary line.

This system permits land-related information to be much more timely: As soon as any such data become available to one office of government, that office enters the data at once, and that entry is immediately known to all branches. When notice of a lawsuit affecting interests in a certain parcel of real property is filed with the clerk of court, the fact of that notice is keyed into the system by the clerk on the same day and is immediately available to a title searcher at the register of deeds' office. As soon as a local building inspector approves a newly built house for occupancy, he returns to his office and enters the information as to address and status, and immediately the PIN-light on the police and fire department wall maps is activated. The technology is already available, but keeping the system current takes constant commitment from all staff members of governments that have such an IMS to enter newly obtained information immediately rather than allow it to accumulate for days.

Such a system is a worthy goal for North Carolina's counties and cities. No local unit yet has the complete system, but a few are approaching it. Having seen the system functioning in cities like Houston and Chicago, we know that it takes time, money, and especially commitment—by the board of commissioners and every department, agency, and section chief. Carefully developed long-range planning is essential. One major responsibility of the state's LRMP staff is to help a county develop that plan and then to give the technical assistance and guidance that will move the project along step by step.

After meeting with the county's board of commissioners and answering their questions, the LRMP staff will help the county work up its plan and prepare the formal request and approval for assistance.[2] When the exchange of request and approval is complete, the LRMP staff begins its work with the county representatives in producing new maps for the entire county.

Experience over the past five years has shown that assigning PINs to parcels and constructing an IMS for ultimate computerization will not produce any long-range savings if these steps are taken on the basis of inadequate existing base and cadastral maps. Eventually outdated or inaccurate maps will have to be remade, because the reliability of the PIN coordinates is critical to the development of the data base. Moreover, the depiction of the parcel itself on the property maps is an indispensable part of the IMS. Both the parcel's acreage and its boundaries—by length, bearing, and placement—must be precise. And the full and proper identification of each parcel's owner or owners, obtained by deed research when the cadastral map is made, is another vital aspect of the IMS.

It must be emphasized that the long-range goals of the LRMP, as described in this article, will never be attained without complete respect for the system and appreciation and maximum use of it by *all* concerned governmental officials. These officials must have full confidence in the reliability, accuracy, and legal sufficiency of each part of the system and especially of its foundation.

Most of the LRMP's time and money is spent in building the proper mapping foundation for the county's project. The LRMP staff and the appropriate county officials inventory and inspect the existing maps and lay out the new requirements in detail with the ad hoc planning committee. The committee then begins negotiating with all interested and qualified mapping contractors, and it examines and approves the final contracts with the aid of the LRMP staff. It monitors the continuing work on the maps, in conjunction with both the county and the contractor, according to the detailed provisions of *Technical Specifications for Base and Cadastral Maps*.[3] The county and the LRMP staff also make frequent quality-control inspections. Eventually the complete set of new maps is signed over to the county representative, who in turn assigns them to the county mapping or land records office. That office will then be responsible for maintaining these maps on a daily basis, including recording new information as it is passed to that office. Without daily maintenance, the cadastral maps will soon become obsolete; a sizable investment by the county will then be wasted and the integrity of the land records system destroyed.

Once the mapping foundation is in place, the LRMP staff has the ability and the resources to help establish the land records data base within the county's existing computer capabilities or with an appropriate new computer and ancillary equipment. The LRMP staff hopes to develop, by contracting with software firms that will work closely with the counties, a uniform software package for the land records data base that can be transferred from county to county.

Forty-four counties are now participating in the North Carolina Land Records Management Program, which is based on accurate maps and creative use of computers. However, the LRMP is interested not in mere advances in technology but in helping local governments open up new and efficient ways of serving their citizens.

"Computer people" speak fondly of their new systems in terms of *applications*. And it is in the search for increasing application of the computerized land records base that the LRMP's most far-sighted planning is being done. An interdepartmental state planning committee is now working to demonstrate the feasibility of digitizing all of the soils survey data developed, tabulated, and mapped by the U.S. Soil Conservation Service. The suitability of land for farming, forestry, building, or other development is, of course, a prime factor in evaluating that land and projecting its best use. It is expected that this information can be digitized and integrated with a county's computerized land records system, which would help in such areas as the tax department's reappraisal of real property and the planning department's projections of industrial and residential growth and its land-use planning. One application now being considered is the construction of an industry-recruiting "presentation package" from an IMS that has digitized such factors as the county's

2. See statutory authority in *id.* §§ 102-15 through -17; *id.* § 143-345.6; and *id.* § 161-23.2.

3. The current edition, dated March 1983, is available from the Office of Administrative Analysis (Attn: LRMP), North Carolina Department of Administration, Raleigh.

road and rail networks, water resources, undeveloped acreage, nearness of work forces, taxing formulas, and the like. Even the fact that a county *has* such an LMS available can be, in and of itself, impressive to a firm that is looking for a new industrial site. The long-range value of an operational computerized land-records LMS is limited only by the users' imagination.

The kind of project described here is expensive, and it can take a lot of time to install. But the ultimate question is whether a local government can afford to do without it. The City of Chicago decided to purchase such a system when it discovered, to its astonishment, that each year it was paying the amount of the system's purchase price in unnecessary costs of street repairs brought on by utility companies' failure to coordinate and integrate their emergency and regularly scheduled maintenance. A water line would burst and the city would rush in, tear up the street, repair the line, and repave the street. Two weeks later the telephone company would arrive at the same part of the street and tear it up again in order to accomplish regularly scheduled maintenance on its underground lines. This problem has been solved by a computer program, part of Chicago's land records system, that enters the annual street maintenance plans from the city and all concerned utilities and integrates them with each other and with emergency conditions.

The LRMP staff does not view the program it is charged with administering as high-cost "window dressing." Rather, it sees the program as an essential adjunct of progressive local government that will pay for itself over the next ten years. Because this is an optional program for county governments (cities are encouraged to work with and through the county), the LRMP staff needs only an invitation from the county commissioners to begin work. ●

Law Enforcement Training *(continued from p. 5)*

These steps will cost money. The Attorney General has recently proposed that a "sustaining fund" (administered by the Standards Commission) be created for law enforcement training,[21] to come from court costs assessed against convicted criminals. The head of the Charlotte Police Department formally advocated a similar concept in a presentation last summer to a group of police administrators.[22] Legislation recently has been introduced that would create such a fund[23] and could help finance the changes recommended here.

Many who oppose change in North Carolina's law enforcement training system argue that instead of changing the system, we should improve it. This article advocates exactly that—improvement of the existing system. North Carolina has made significant strides toward assuring high quality in police training and practices. Our goal now should be to use our fine, though limited, resources most productively and efficiently.

In his 1967 report to the Governor, Albert Coates remarked, "Our short course training programs for law enforcing officers in North Carolina are running in rivulets, where they might be running together and reenforcing each other in a river which is greater than the sum of all its parts."[24] This statement is as true today as it was in 1967. The need now, as then, is to improve the quality of North Carolina's law enforcement training by allowing full use of available resources through a stronger system of centralized support. ●

21. Edmisten, *op. cit. supra* note 7.

22. Presentation by Police Chief M. M. Vines, City of Charlotte, to the 1982 Combined Annual Conference of the North Carolina Association of Chiefs of Police and the North Carolina Police Executives Association, July 19, 1982.

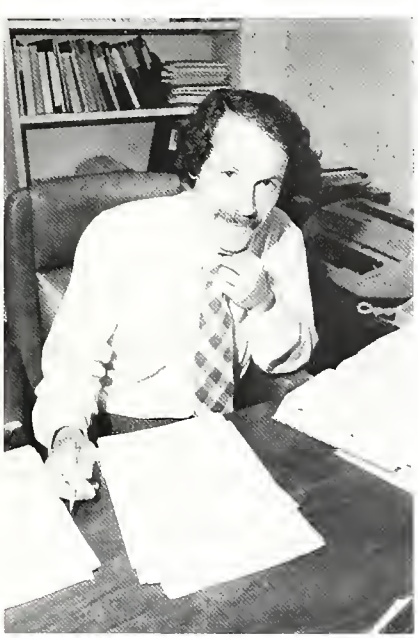
23. N.C. General Assembly, 1983 Session, HB 659.

24. Coates, *op. cit. supra* note 1, p. 31.

When should minutes be kept of executive sessions of public governing boards and what should they contain?

David M. Lawrence

To answer the question, I'll have to discuss the purpose of minutes for a moment. That purpose is to provide an official record of the board's *actions*. To effect that purpose, the minutes of a meeting should describe the action, give the text of the action itself (if appropriate), and record the fulfillment of any conditions that had to be met before the action could be valid; that is, the minutes should say that the meeting was legally convened and a quorum was present, and it should report the vote by which the action was taken. Any other matters included in these minutes—such as a transcript or summary of what individual board members or members of the public *say* at the meeting—are legally unnecessary.



The author is a specialist in local government administration at the Institute.

The most common reason for an executive session—the law permits executive sessions for nineteen different subjects—is to permit the board members to discuss the matter without the restraining effect of public attendance. In nearly all cases no action may be taken at an executive session (the Institute publication *Open Meetings and Local Governments in North Carolina*, by David M. Lawrence, lists the various matters that can be discussed in executive session and points out those matters as to which action may be taken in an executive session). Since that is so, and since the minutes need not record what people say, it is usually not necessary to keep minutes of an executive session. All that the board's minutes need to show is (a) that a motion was adopted to hold an executive session, (b) the text of the motion, and (c) that such a session was held pursuant to the motion. The minutes should also show that when the executive session was over, the board returned to open session, if only to adjourn.

It is not only legally unnecessary to keep minutes of an executive session, when the only purpose of the session is to discuss a matter, but probably unwise. If notes are taken at the session and minutes prepared that indicate what was said and by whom, the fact that such a written record exists increases the chances that the content of the discussion will become known to persons who did not attend the session. If that occurs, the very point of the session might be frustrated and the board members might well become inhibited in future executive sessions, thereby reducing the value of having the sessions.

As noted above, usually no action is taken at an executive session. But for a few purposes action may legally be taken in such a session. For example, school boards are authorized to hold executive sessions to "hear, consider, and *decide*" pupil disciplinary cases. Thus a school board might legally place a pupil on probation or suspend him or her in executive session. If such an action is taken in executive session, minutes will be necessary to record that action and the fulfillment of the conditions necessary to its validity. When the statute permits an action to be taken in executive session, it usually contemplates that the substance of the action—indeed, the very fact that it took place—will remain confidential. Thus the suspension of a pupil may remain off the public record. To bolster that permitted confidentiality, the open-meetings law permits a board to withhold minutes of executive sessions from public inspection—that is, to seal them—for "so long as public inspection would frustrate the purpose of the executive session." ●

A Voice for the Poor: Legal Services in North Carolina

Denison Ray and James Abbott

Editor's note: This article deals with civil legal services for the poor. An article in a future issue of Popular Government will describe criminal legal services for indigent defendants, especially North Carolina's public defender system.

Most of us take the law for granted as something that somehow protects us while happening to others. But the law is a day-to-day reality that affects people differently. Rich people and business corporations pay substantial legal fees so that the tax, securities, trade, and other laws that regulate the nation's business will help rather than hinder the making of a profit. But to the small farmer whose acreage is being foreclosed on by the Farmers' Home Administration, to the single mother threatened with losing custody of her child to the social services department, to the handicapped veteran who has been denied Social Security disability benefits, to the tenant of a slum house who is behind in his rent and about to be evicted even though the sewer backs up into the toilet — to them the law is a one-way street leading to terrible injury. And none of these people can afford a private lawyer.

This article is about the provision (generally federally financed, but in some places locally funded) of free legal services to low-income North Carolinians in civil cases. It is not about the specifics of the thousands of individual civil legal problems that ultimately reach North Carolina's Legal Services attorneys each year. Rather, this discussion focuses on why it is important in a democratic society "of laws rather than of men" for the legal needs of the poor to be forcefully and effectively met in the courts, administrative agencies, and legislative bodies of local, state, and federal governments by attorneys who are experienced and expert in "poverty law" and will represent the rights of poor people with the same aggressive competence as the paying client expects from his or her lawyer.

Who are the poor?

In determining eligibility for free legal aid, North Carolina's Legal Services agency (described below) uses the eligibility standard allowed by the federal-level agency that administers the program nationally. For an applicant to be eligible, his income must be no more than 125 per cent of the "official poverty threshold" as defined by the federal government. (See the article by

The authors were formerly, respectively, Executive Director and Director of Public Affairs and Development of Legal Services of North Carolina, Inc. Mr. Ray holds a law degree from New York University and practiced law for a time in New York City. He was associated with civil rights and legal aid organizations in Mississippi, St. Louis, and Maine before he became Legal Services director in Durham in 1973. Mr. Abbott is a graduate of Atlantic Christian College. He spent several years in public relations and advertising in eastern North Carolina before he joined LSNC in 1978.

Joel Schwartz on poverty in North Carolina in the Spring 1983 issue of *Popular Government*.) That standard now translates into an annual income of $11,625 for a family of four—$5,850 for a single individual. Those amounts are far below the minimum necessary for a North Carolina resident to maintain health and well-being. A 1974 study by the Research Triangle Institute updated to reflect inflation through 1982 estimates that a North Carolina family of four needs at least $14,980 per year for healthful subsistence. In other words, Legal Services clients do not even have enough money to meet a minimum standard of living.

As of the 1970 Census, about 1.4 million North Carolinians were eligible for Legal Services—roughly one-fifth of the state's population. When this article was written, final 1980 Census income data were not yet available for individual states. But it is clear that the number of poor increased nationwide over the past decade. The Census Bureau reported that the number of people below the official poverty level rose to 29.3 million—13 per cent of the national population—while the nationwide client population eligible for Legal Services increased to almost 40 million.

Law in the lives of the poor

Low-income people are threatened each day by loss of income, loss of jobs, loss of health, loss of shelter, loss of children, loss of an education, loss of possessions, loss of civil rights, loss of dignity and self-respect. Often these losses occur at the hands of people, institutions, and government agencies that purport to act under the law but in fact deprive poor persons of their legal rights.

Many times a poor person does not even know that his or her rights are being violated. Relatively uneducated in general, fearful of the law as something done *to* them, distrustful of lawyers and without resources of their own, poor people are especially vulnerable to injury in our legal system. Besides having inadequate incomes, the poor see themselves and are seen by the non-poor as powerless and without political leverage. Consequently income supplementation and housing, educational, and other benefits that improve their lives are continually being threatened at the federal, state, and local levels.

The cost of living continues to escalate, but the poor often remain in a "holding" pattern or even slip in terms of real income, with little or no discretionary money to spend after monthly rent, utilities, and food costs have been paid.

Furthermore, a single violation of a poor person's rights can put him in a situation from which he cannot escape. Consider the plight of one low-income family:

—The wage earner became ill and did not get proper treatment because the local hospital denied him admission, in violation of rights established by the Hill-Burton Act.[1]

—The family car, which provided transportation to his job, was wrongfully repossessed when a payment was missed because of the wage earner's illness, and the finance and insurance companies refused to honor the credit insurance.

—The wage earner, a black, was fired for tardiness caused by his lack of transportation while whites with the same problem were kept on.

—The wage earner was denied unemployment compensation when the employer claimed that he was fired for cause.

—Though required to do so by the law, the county social services department did not act quickly on the family's application for Aid to Families with Dependent Children (AFDC).

—Despite the moratorium on winter cutoffs imposed by the State Utilities Commission, the family's electricity and gas service was cut off because the bills were not paid.

—The family unit was destroyed when the social services department took custody of the children because they were living in an unheated home.

This example of the cumulative and interrelated legal problems of the poor and similar situations happen every day in North Carolina and throughout our country. What good are laws unless every person whose rights are at stake has real access to our legal system to enforce the right or to correct the wrong?

The Legal Services organization

Because our legal system is so complex, most people cannot be adequately heard without an attorney.[2] This is especially true for the poor, who very often lack the education, experience, or confidence to represent themselves effectively in such rudimentary legal problems as renting an apartment, buying on installments, dealing with a government employee across the counter—the commonplace legal situations that non-poor people deal with as a matter of course. If poor people are to be included within the system and not destroyed by it, they need meaningful representation. Out of that realization of the gap between rhetoric and reality in fulfilling the principle of equal justice under law, the national Legal Services program was created.

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1. The Hill-Burton Act, passed in 1946, states that hospitals built or expanded through use of federal funds must provide medical care to indigents in an amount equal to the amount of federal funds used.

2. A report of the Committee on Legal Assistance of the Association of the Bar of the City of New York noted that tenants who were represented won twice as often in court as those who were not.

Equal justice under law is a touchstone principle of this nation. Lewis Powell, now Associate Justice of the United States Supreme Court, once said,

> Equal justice under law is not merely a caption on the facade of the Supreme Court building. It is perhaps the most inspiring ideal of our society. It is one of the ends for which our entire legal system exists . . . . It is fundamental that justice should be the same, in substance and availability, without regard to economic status.

But until 1964 equal justice was little more than a part of the national rhetoric. While the history of legal assistance to the poor in civil matters dates back to 1876, until the mid-1960s the actual delivery of legal aid was confined mostly to the urban areas of the Northeast and Midwest and was conducted largely as a charity. In 1964, however, as part of President Johnson's War on Poverty, a Legal Services program was created under the Office of Economic Opportunity (OEO). This program established several hundred Legal Services offices across the country, though not many in the South because of resistance from southern public officials and the dearth of local legal aid programs.

Legal Services came under strong attack from its inception. Concerned that the program not become a political football, Congress undertook to create a separate public agency outside the executive branch of the federal government to administer it, and in 1974 President Nixon signed legislation that established the Legal Services Corporation.

But the Legal Services Corporation Act did not end the political controversy over free legal representation to the poor. The Reagan Administration has sought to eliminate the Legal Services program; in 1982 federal funding for this program nationwide was cut by 25 per cent and to date has not been increased.

In North Carolina from 1968 to 1974 there were three single-county OEO-funded Legal Services programs—in Charlotte, Durham, and Winston-Salem—and also several small locally funded legal aid offices in Greensboro, High Point, Hillsborough, Raleigh, and Wilmington and on the Cherokee Indian Reservation.

With the prospect that increasing amounts of federal dollars would be available for Legal Services, the North Carolina Bar Association in 1974 launched a two-year study by a blue-ribbon panel of lawyers and judges into the legal needs of the state's poor in regard to civil matters and criminal defense. The report from that study recommended that a nonprofit corporation called Legal Services of North Carolina (LSNC), Inc., be established to ensure that poor people throughout the State of North Carolina would have legal representation.[3]

LSNC, established as a result of that recommendation, presides over a confederation of regional Legal Services programs that serve 83 of the state's 100 counties. The programs in Charlotte, Winston-Salem, and Durham—which existed before LSNC—continue to operate independently of LSNC and now provide service for the 17 counties that are not served by the LSNC-affiliated programs.

LSNC is the nation's third largest grantee of the Legal Services Corporation, with funding in 1983 of $5.4 million. It has a network of 12 regional field programs; three special-client field programs for the state's mentally handicapped, migrant and seasonal farmworkers, and prisoners; and two special-client units (attached to regional field programs) to serve Indians who do not live on a reservation and the Indians on the Cherokee Reservation concerning legal problems unique to their status as Indians. The agency has a staff of over 200, including 117 attorneys and paralegals.

LSNC is governed by a 15-member board of directors composed of nine attorneys, five people who are eligible to be Legal Services clients, and one person who is neither an attorney nor a client. Each of its 15 field programs is also a nonprofit corporation with its own board of directors, 60 per cent of whom are attorneys and the rest clients. The LSNC board deals primarily with funding and operational issues on a statewide scale while the local boards establish operating policy for their local offices.

In addition to their participation on the state and local boards of directors, Legal Services clients also have input into the operation of Legal Services programs through involvement in local and state client councils. The client councils help programs identify and rank in priority the substantive legal issues that need to be addressed.

Legal Services programs across the country, including LSNC, operate semiautonomously; they are accountable to the Legal Services Corporation, which has nine regional offices and a headquarters in Washington, D.C. The Legal Services Corporation promulgates regulations and other national policy under the act. It is run by a professional staff selected by an eleven-member board of directors appointed by the President of the United States and confirmed by the Senate.

In compliance with regulations promulgated by Congress and the Legal Services Corporation, all clients accepted by Legal Services for legal assistance are first screened to ensure that they meet financial eligibility standards. Those who seek assistance for criminal cases are then screened out. [Other provisions are made for indigents who need representation for criminal matters, and these will be discussed in a later issue of *Popular Government*.—Ed.] It is then determined whether the applicant's claim is meritorious and whether the case should be accepted under the local program's priorities and criteria.

3. Final Report of the Special Committee on Indigent Legal Services Delivery Systems, March 19, 1976, North Carolina Bar Foundation.

Like most private attorneys, Legal Services lawyers make careful determinations about which strategies to pursue to resolve the client's problems. And given its limited resources to meet overwhelming legal needs among the state's poor, LSNC also seeks to handle cases that, through the representation provided to particular clients, will lead to results that benefit large numbers of low-income persons around the state. In this way it seeks to maximize the cost-effectiveness of the public funds entrusted to it.

LSNC and its affiliated regional programs now receive $5.4 million per year in federal funding. This is not a large sum when allocated among all of the programs' clients, many of whom have several legal prroblems. A total of 23,047 clients applied for services in 1982 at an average cost to LSNC of $234 per applicant—not much when compared with the fees of attorneys in private practice. (About 5,000 of the applicants were not taken on formally as clients, but each received at least a half-hour of screening, and many applicants were referred to another agency.) LSNC's resources are spread very thin —its programs cover 83 counties and 41,000 square miles. Many clients live in rural, sparsely populated areas, which makes it difficult to provide service that is accessible to them.

The scarcity of resources is compounded by the fact that the typical low-income family in North Carolina encounters up to seven serious civil legal problems each year.[4] A random sampling of eligible client households across the state, the most extensive survey of legal needs ever undertaken by a Legal Services program, revealed that poor people face more than seven times the number of civil legal problems confronted by the average American family.[5]

A Legal Services program differs from the typical private law firm in many important respects. Its services are regulated by federal law and agency directives. It uses public funds for which it is strictly accountable. It is responsible for covering a designated client population and geographical area. It must operate like a business corporation with its own board of directors. Some of its clients participate in its governance. It is part of a national bureaucracy that monitors it and imposes various reporting requirements. It was created by and exists on the basis of political judgments made by politicians, and that existence has therefore been a constant political issue. Its funding is fixed by the Corporation in Washington, and it may not charge fees to expand its resources.

Yet despite the limited funds, the bureaucracy, the controversy, and the political uncertainty, the program staff must still function as attorneys, bound by the Code of Professional Responsibility and committed to high-quality, professional, zealous representation of their clients.

Some sample cases

Every day in Legal Services offices across the state, poor persons seek help with real-life legal problems. Some typical examples:

—A seventeen-year-old mother bought a $2,500 life insurance policy on her three-month-old baby. When the baby died of infant crib death syndrome, the insurance company refused to pay. A Legal Services attorney won a $3,100 out-of-court settlement for the mother.

—An elderly woman living in an isolated, rural area of western North Carolina bought a new heating system for her home from a door-to-door salesman who told her that the payments would be about $50 a month. Although she could neither read nor write, the woman made her "X" on the contract, which was also a deed of trust on her home. Total cost of the transaction including finance charges was over $5,000, and her monthly payments were over $100. When she could not make her payments, the heating company assigned her contract to a finance company, which instituted foreclosure proceedings. A private attorney told her that nothing could be done to save her house. A Legal Services attorney represented her in suing the heating company and the finance company for violations of the Truth in Lending Act and the Installment Sales Act and for breach of warranties. As a result, the woman was allowed to keep her house after paying the $700 actual cost of the heating system.

—The mother of a disabled child confined to a wheel chair was told that the child would be evicted from the facility where she was being cared for unless the family paid part of the cost of keeping her there because Medicaid payments were not covering all the costs of her care. The mother and her other children worked at various jobs but could barely make ends meet, and they could not care for the child at home. Legal Services attorneys persuaded the North Carolina General Assembly to change the social services regulations that required that all the income of this mother (and others like her), except for a very small amount, be "deemed" available to pay care expenses not covered by Medicaid. The child was able to remain at the facility, where she receives proper care.

—A 24-year-old terminally ill woman called the local Legal Services office from her hospital bed and said that she expected to die within a few days and needed help in preparing a will to provide for the care of her two chil-

4. Excerpted from a survey taken for LSNC in 1978 by the NTS Research Corporation of Durham with assistance from the National Social Science and Law Project of Washington, D.C. Filed with the author.

5. The figures for the "average" American family are based on a 1974 study by the American Bar Foundation. Barbara A. Curran, "The Legal Needs of the Public."

dren. The next day the Legal Services attorney took the prepared will to the hospital, and the client signed it. Two days later she died.

Literally thousands of similar examples cover the entire gamut of civil legal problems, such as the location of a highway through a residential community of poor people, the denial of free school lunches to low-income students, and the Farmers' Home Administration's refusal to give loans to low-income black farmers.

Legal services and public policy

Whether as "law enforcers" when they simply enforce existing laws on behalf of clients or as "law changers" when they see the law as an instrument to enhance their clients' lives, Legal Services attorneys in North Carolina and across the country are questioning the policies and actions of public officials and private citizen as they pertain to the treatment of the poor. In these ways they perform the same functions as private attorneys have traditionally performed for the non-poor.

Some local and state government officials may perceive Legal Services attorneys as enemies because they challenge the status quo whenever the existing policy or practice harms their clients. What they are doing, however, is simply seeking to make the legal system as accountable to the needs and rights of low-income citizens as to the rights of other citizens. For example:

1. Each year Congress, state legislatures, city councils, and county commissions enact laws that involve the expenditure of billions of dollars in aid programs for the poor. Legal Services attorneys have played an important enforcement role in interpreting these laws and in helping the poor insure that the legislative intent is implemented in the courts and administrative agencies.

2. In local courthouses across the country Legal Services Attorneys are aggressively and effectively using the constitutional principles of equal protection and due process of law to protect poor people's right to receive fair hearings of their claims in civil matters.

3. Through numerous cases, Legal Services attorneys and clients have overturned the practices of government officials whose decisions illegally injured poor people. Among the better known but sometimes unpopular examples are the cases of *Alexander v. Hill*[6] (requiring timely processing of AFDC and Medicaid applications), *Spinks v. Taylor*[7] (which led to legislation outlawing self-help evictions by landlords), and *Sneed v. Greensboro Board of Education*[8] (preventing public schools from imposing fees for certain instruction without allowing exemption for students whose parents were unable to pay).

4. Over the years, the efforts of Legal Services lawyers on behalf of their clients have also resulted in the detailed definition for the first time of the legal rights of the poor in specific programs like Social Services disability, Supplemental Security Income, AFDC, food stamps, Medicaid, Medicare, unemployment insurance, employment, consumer affairs, landlord-tenant relationships, mental health, and housing and in the law pertaining to migrants, juveniles, Native Americans, the elderly, and the handicapped.

5. Legal Services lawyers and clients have influenced the passage by state and local legislative bodies of laws designed to increase protection to or fairer treatment of the poor. Among the notable examples are the passage by a number of states (including North Carolina) of laws that require landlords to make their rental property fit to live in and bar landlords from retaliatory evictions of tenants who report violations of the local housing code to authorities.

6. Legal Services lawyers educate poor people to their legal rights and responsibilities and teach them how to use the legal system through the exercise of peaceful self-help so that, like the non-poor, poor persons can defend themselves without attorneys in rudimentary legal situations like signing contracts, borrowing money, and dealing with agency officials.

The laws, policies, and practices of public and private institutions are made and carried out by non-poor persons who may be unaware of (or perhaps are uncaring about) the damage that is done in the name of the law to the 20 per cent of the citizenry at the bottom of the economic ladder. If there were no one to challenge such injury, the legal process would be diminished, and we would all be the poorer for it. It becomes the obligation of each person to assure that equal justice is a reality.

Today in North Carolina the Legal Services programs have been joined in their quest for equal justice by hundreds of private attorneys who, often through the efforts of the organized bar, are helping to provide legal services for poor people. Many dedicated public officials and employees share the attorneys' commitment. Equal justice in truth rather than merely in theory may one day be a reality. ●

6. 549 F. Supp. (W.D N C. 1982).

7. 278 S E.2d 501 (N C 1981) The Legal Services attorneys actually lost this case in the North Carolina Supreme Court, which ruled that a landlord could use peaceful self-help (such as padlocking the door) to deal with a tenant in default in rent payment. But the decision led to legislation (N.C. GEN. STAT. § 42-25.6 et seq.) requiring that statutory ejectment procedures (*id.* § 42-26 et seq.) be used exclusively.

8. 264 S.E.2d 106 (N C. 1980).

Community Hospitals: Struggling for Survival

Wyatt E. Roye

Community hospitals are in a time of trial. After thirty years of being able to rely on federal funds for hospital construction and for the cost of caring for Medicare, Medicaid, and indigent patients, local hospitals are now being faced with great cutbacks in federal subsidies for health care services. Encumbered with operating losses from caring for federally supported patients whose costs are not fully paid, the hospitals are having to pass the burden of covering the losses along to insurance carriers and to patients who pay their bills themselves. The ramifications of this fact are wide and unfortunate. This article explores the situation in which community hospitals find themselves and how this problem affects the local governments that may be responsible for them.

The rise and fall of federal funding

At the end of World War II great advances had been made in medicine, an enormous population explosion had just begun, and American hospitals were inadequate in both number and facilities. As a result, in 1946 Congress passed the Hill-Burton Act, which provided huge amounts of federal funding for hospital construction. At that time local hospitals were often owned by physicians. To qualify for Hill-Burton funds, hospitals had to be nonprofit; therefore many proprietor-physicians transferred their institutions to local government or to autonomous community nonprofit corporations. The Hill-Burton Act continued until 1976. In those three decades, 80 new hospitals were constructed and 241 general hospital projects were funded in North Carolina. During that time the state received more than $200 million in federal subsidies for the construction of health facilities.

With the end of Hill-Burton in 1976, the federal construction tap was turned off. To make major capital improvements, hospitals were forced to use accumulated reserves or go into debt. As of June 1982, forty-three county and municipal hospitals had about $250 million worth of bonds outstanding. Most of these bonds are general obligation issues backed by county governments. Even though the bonds are general obligations, and thus payable from local taxes, the county still expects the hospital to generate all of the funds necessary to meet the scheduled bond payments.

Medicare, a program to provide health services to the elderly, and Medicaid, a program that purchases health services for the poor, both began in 1966. Totally federally funded, Medicare in the early years paid hospitals their costs plus a small profit to encourage institutions to participate. For Medicaid, about 67 per cent of the funds come from federal moneys; the rest comes from state (27 per cent) and county sources. The cost of these two programs quickly exceeded all expectations, and by the early seventies "cost containment" became a dominant goal in health care.

The congressional intent in enacting Medicare has not been tampered with. Still, for the past ten years the federal strategy[1] in administering the program has been to hold the line on federal expenditures by reducing the portion of the hospital bill the government pays without reducing benefits offered to Medicare recipients. This is done at the administrative level by simply changing the provisions that regulate the amount that Medicare will pay for a particular patient's stay in a hospital.

Over the years the gap has widened between what a hospital receives for the federally sponsored (Medicare and Medicaid) patients and the actual cost of their

The author is Director of Management Services with the North Carolina Hospital Association.

1. Carried out by the Department of Health and Human Services through its Health Care Financing Administration.

Table 1

Percentages of Hospital Patients of Varying Types, with Percentages of Costs Received by Hospitals

Type of coverage	% of patients	% of actual cost rec'd by hosp.
Insured or Patient Pays	53%	100% or more
Medicare	36	84
Medicaid	10	85
Indigent	4	Much less than cost, even nothing

care. This discrepancy is not apparent to the subsidized patient, because by law hospitals cannot bill him for the cost difference. As a result, in order to stay solvent, hospitals shift costs to patients who are covered by Blue Cross or a similar insurer or can pay their own way. Cost-shifting from less-well-off to better-off patients (financially speaking) has been going on since hospitals first began as local charities. Recent heightened attention to cost-shifting arises from the dramatic increase in cost-shifting as a result of cutbacks on the amount of a Medicare patient's actual costs that the federal government will pay. Hospitals' losses on these patients increased by 48.9 per cent from the first quarter of 1979 to the third quarter of 1982; they now equal almost 10 per cent of total hospital operating costs.[2] Cost shifts have greatly affected the cost of private health insurance, and they were probably the largest contributor to the premium increase by Blue Cross that led the State of North Carolina to drop Blue Cross and become a self-insurer in the medical care plan it offers to state employees.

Tables 1 and 2 and Figure 1 illustrate the reason for the shifting of costs for hospital care. Table 1 gives the breakdown of hospital patients by type of coverage and indicates the percentage of actual hospital costs paid on their behalf. In North Carolina, 53 per cent of all patients either have insurance or pay the bill themselves; 36 per cent are covered by Medicare; 10 per cent by Medicaid; and 4 per cent are indigent. Table 2 shows that the percentage a hospital recovers of its actual cost of caring for a patient depends on who is paying that patient's bills. If Blue Cross or some other insurer is paying, the proportion paid may exceed cost. The proceeds from this excess percentage compensates for the below-cost payments received for Medicaid and Medicare patients and for indigent patients not covered by any source. Figure 1 shows how the hospital's receipts for insured patients and patients who pay from their own pockets must cover not only the actual cost of care (76 per cent of the receipts) for these patients but also the shortfall on Medicare, Medicaid, and indigent patients (19 per cent of the receipts from insured or privately covered patients goes for this purpose), plus—at most—a 5 per cent profit.

Today hospitals face continued cuts in federal funding. This strategy of reducing federal funding to see how the private sector reacts is working well from the government's perspective. Hospitals are scrambling to find alternative sources of revenue to offset these cuts, and the business community is only now becoming vocal about the cost-shifting it is asked to support through increasingly costly insurance coverage for its employees.

These trends could continue until the cost-shifting burden becomes more than paying patients can bear and hospitals therefore choose to turn away Medicare and Medicaid patients. When that point is reached, no elected official will have been directly involved in the decision to deny services to these patients. The media will report only that local hospitals no longer accept them, and federal spokesmen will declare that such an unfeeling move is "shocking."[3]

2 Ken Zielski, *Health Care Financial Management* (March 1983), 92

3 The U.S. Department of Health and Human Services' Atlanta office has produced a report entitled "Facilities Obligated Under the 20-Year Uncompensated Care in Community Services Assurances," which shows, by state and city within the region, the uncompensated-care obligation (pages 72 through 75). This report shows that as of April 1980, ninety-six

Table 2

Percentages of Actual Cost of the Same Hospital Service Charged by Hospitals with Varying Percentages of Federally Supported Patients

Amount charged by hospital with high percentage of Medicare, Medicaid, and indigent patients	130%*
Amount charged by hospital with average percentage of Medicare, Medicaid, and indigent patients	115%*
Amount charged by hospital with no Medicare, Medicaid, and indigent patients	105%
Actual Cost of Hospital Care	100%

Actual hosp. cost	% paid by Medicaid	% paid by Medicare	% paid by indigents (may be less or even zero)	% paid by insurance or patient (varies depending on number of Medicare, Medicaid, and indigent patients)
100	85	84		

* These percentages are the author's estimates

So what happens next?

There are five readily identifiable trends that will affect health care in the next few years: (1) a continued rise in health care costs; (2) a doubling in the numbers of practicing physicians within the next twenty years; (3) increased competition for the paying patient and a growth in outpatient health services, both in hospitals and in free-standing units; (4) a possible double standard of care; and (5) greater concern by the private sector in controlling the cost of health care for its employees.

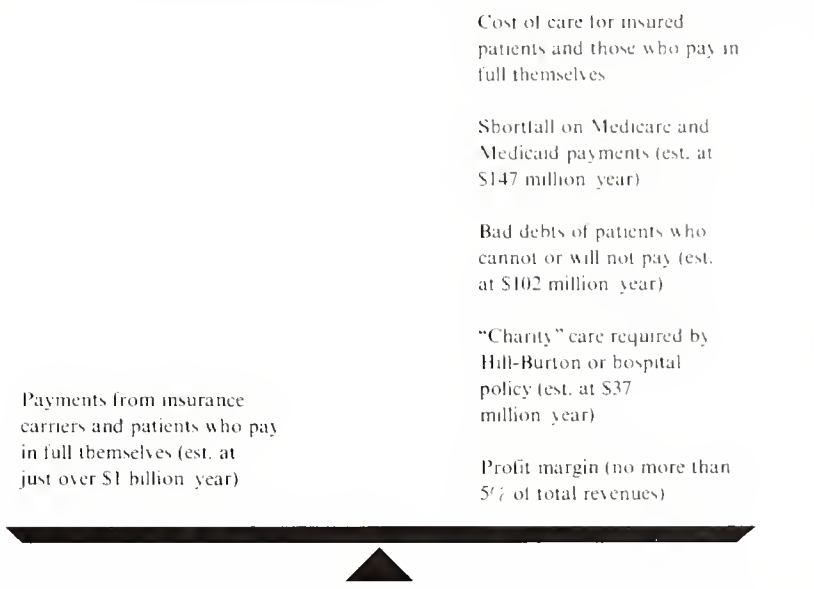
Rising costs. Hospital costs will continue to rise at roughly twice the rate of inflation. Arnold Silver, former president of Hospital Financial Management Association and current publisher of *Rate Controls and Analytical Newsletter on Health Care Trends*, reports that hospital charges increased by 13.5 per cent in 1982 and will increase by 12 per cent in 1983 and 14 per cent in 1984. The Consumer Price Index for the same period rose by 3.9 per cent in 1982 and is expected to rise by 5.5 per cent in 1983 and 8.0 per cent in 1984.

In North Carolina we need to be especially aware that health care for the elderly is expensive. North Carolina will soon be second only to Nevada in the percentage increase in numbers of retired persons who settle each year in the state.[4] The elderly use hospital services at a much greater rate than other age groups, which will raise the demand for health services as the number of older people grows. Furthermore, the fact that many will be Medicare patients means that cost-shifting will drive up the total health care bill even more.

In addition, medical technology is often very expensive. New equipment, sometimes costing enormous amounts, is constantly being developed, and its use is filtering down from large research hospitals to smaller local hospitals.

Figure 1

Shortfalls from Federally Sponsored Patients "Balanced" by Private Sources (North Carolina)



The doctor boom. North Carolina is on the verge of a doctor boom. In 1980 Dr. Eugene Mayer, director of the Area Health Education Center at the University of North Carolina School of Medicine in Chapel Hill, predicted that the 7,000 practicing physicians in North Carolina would grow to 14,000 by the end of this century. Thus far the actual rate of increase has exceeded that prediction.[5] In response to the burgeoning number of physicians, some hospital medical staffs will soon "close," denying hospital privileges to nonstaff practitioners.

"Peeling off." The growth in numbers of practicing physicians will greatly influence the amount of care given in doctors' offices. This phenomenon is called "peeling off"—that is, physicians peel away services from hospitals and offer them in their offices or in small ambulatory clinics. (Examples of peeling-off facilities include a new hand surgery center in Asheville, a birthing center in Burlington, and numerous small treatment centers for emergencies and minor surgery.) Newer Blue Cross policies encourage this practice by reimbursing doctors 100 per cent of their charges for patients treated on an outpatient basis but only 80 per cent of charges for patients admitted to a hospital. Other insurance companies will follow if this approach succeeds in restraining the number of hospital admissions.

Competitive activity between physicians and hospitals will increase, and in the end hospitals will be left holding the high-overhead bag because they must maintain full services around the clock while physician-owned treatment centers may close at night or limit which services they provide (and therefore which patients they will serve). For most people this competition is a good thing. Those able to receive health care outside a hospital may incur less delay and expense because of it.

A double standard of care. One potential side effect of this move toward more outpatient care could be significant to publicly owned community

acute-care hospitals had Hill-Burton obligations. Between 1980 and 1983, seventeen hospitals will have aged out of their Hill-Burton obligation; by the end of 1989, thirty-one more will do so. A nonprofit hospital with a Hill-Burton obligation that is purchased by a for-profit company must pay the entire amount of its Hill-Burton obligation at that time, even though the hospital may be only a year or so away from completing its obligation.

4. *Business: North Carolina* 2, no. 4 (April 1982), 14.

5. Dr. Stuart Bondurant, the dean of the UNC School of Medicine, says that the state's medical schools are producing the proper number of graduates and any excess is due to the influx of physicians from other areas. *North Carolina Medical Journal* 44, no. 1 (January 1983), 28.

Payments from insured patients and those who pay in full themselves must cover not only the actual cost of these patients' care but also shortfalls on Medicare and Medicaid payments, bad debts, "charity" care, and a small profit margin.

hospitals. The sole target of the current competitive flurry is patients covered by insurance and patients who pay their bills from their own funds. Independent medical vendors are free to choose as patients only people with good insurance and acceptable credit. But public hospitals have a commitment to everyone who lives in the area. Unless physicians in private practice and public hospitals *share* the burdens of indigent care, hospitals will have many of their insured and self-paying patients peeled away, leaving a higher percentage of indigent and federally sponsored patients for the hospitals to care for. The corollary is that in this eventuality there would be even fewer full-paying patients to shift costs to. The inevitable result would be even higher hospital rates. Over a period of time the hospital could decline and be unable to renovate, buy new equipment, or attract new physicians. It could become a second-rate place of care for publicly sponsored patients and the indigent. In effect we would have a dual system of health care—one for insured patients and an inferior one for public patients.

The private sector's interest. Private enterprise no longer accepts automatic increases in health benefit costs. It is becoming fed up with cost-shifting and is beginning to pressure providers, both physicians and (especially) hospitals, to hold down costs. In the present climate this pressure could cause providers to give less costly care to federally sponsored and indigent patients in order not to run up charges to insured patients.

The private sector has discovered that through positive aggressive action, its employees' health costs can be reduced much as any other cost to business can be controlled. Individually and in coalitions, companies are hiring physicians to review health claims, identifying employees who file frequent claims, directing employees to lower-cost doctors and hospitals, and writing discount contracts with "preferred providers." Preferred provider organizations (PPOs) are evolving as a result of the new competition in health services. Hospitals and physicians contract with local businesses to provide care for their employees at a discount rate in return for a guaranteed volume of patients and quick claim settlements.

What are hospitals doing?

Hospitals in North Carolina are trying to maintain their current levels of services in the face of a payment system that looks increasingly bleak. In July 1982, the North Carolina Hospital Association Council on Hospital Governance informed hospital board chairmen that hospitals could not long sustain their present level of services if they depend on patient revenues alone. As a result, hospital administration is exploring several possible solutions to the problem.

Reorganizing the hospital. One of these possibilities is corporate reorganization. Reorganization of hospitals can take several forms: creation of a foundation, formation of a parent holding company, or participation in a multi-institutional arrangement (MIA). The foundation approach is used to permit the hospital to protect its assets, gifts, and endowments from appearing on its balance sheet and from the Internal Revenue Service.

The parent holding company is a newer concept in which the hospital becomes a nonprofit division within a complex organization that may have both nonprofit and profit-making divisions. The latter subsidizes the nonprofit portions. The classic example of a nonprofit organization that uses a profit-making subsidiary involves the New York University Law School and the C. F. Mueller Company, a manufacturer of pasta. The Mueller Company was acquired by NYU Law School in early 1942. In the next 25 years profits from the sale of spaghetti boosted NYU to one of the most prestigious law schools in the nation.

The term multi-institutional arrangements (MIA) describes a whole range of contractual arrangements among hospitals. The MIA contract can range from purchasing agreements to a total merger of several institutions.

Diversification of income. Maintaining their share of the all-essential insured patients against competitive efforts by physicians and other hospitals calls for creative and nontraditional marketing practices by community hospitals. For example, satellite clinics run by community hospitals in shopping centers or industrial parks may become commonplace.

To be effective, hospital marketing must first determine what health-related projects are needed in a community and then undertake to meet these needs in a well-organized, coordinated response. These needs could run the range from prenatal counseling to the training of Hospice volunteers. They might include health screening, education programs, business-sponsored promotion of wellness, substance-abuse centers, and home health services.

Pay more now or a lot more later

In the past community hospital boards felt that running a nonprofit hospital meant just that—no profit. They approved budgets with zero gains on the theory that it was better to lose a little than to make money from treating the sick. Room rates were kept artificially low, with some correspondingly high markups for other services. Depreciation allowances were plowed back into operations instead of being funded and invested conservatively to be used for later capital purposes.

A hospital run in such a manner is not running—it is dying. The mistaken belief persists on many hospital boards that when that rainy day comes, federal funds will again be available and all will be renewed and reconstructured from the bottomless Hill-Burton pot. Hill-Burton died in 1976 and interest rates began an unprecedented rise, but this fact was not noted in some hospital board rooms. Successful community entrepreneur trustees sometimes leave

their business instincts outside the hospital door and fail to set policies that will provide the resources necessary for the institution to continue on a sound basis. This kind of leadership has no place to go when the money runs out, the building needs replacing, federal funds do not exist, interest rates are sky-high, voters reject bond referendums, and no one wants higher taxes.

A hospital, like any other economic entity, must take full advantage of all opportunities available to it. It must be well managed. The Blue Cross contract with hospitals permits them to make a 5 per cent profit. If it is to continue, the institution must take the full 5 per cent. Few other businesses in the community will survive with less. Fully funded depreciation allowances are essential. Those who feel that hospital rates will be too high if these practices are instituted need to think how high those rates will fairly soon be if these steps are not taken.

What must local government consider?

Providing health care in publicly controlled hospitals appears to many elected officials to be increasingly a no-win proposition. While some county hospitals require no assistance from public funds, others require a certain amount of county support. In some counties, the hospital may be one of the area's largest employers. Its well-being is vital to the county's economy. For the continued well-being of this community health resource, elected officials need to consider (1) getting factional politics out of the local hospital, and (2) either transferring control of the hospital to a nonprofit or for-profit corporation or increasing appropriations in order to maintain quality services.

Politics and hospitals: bad medicine. Hospital governing boards, administration, and medical staffs should be freed from partisan political influence, especially in the area of board appointments. Local government must insure that a community hospital is governed by the most talented, aggressive, and conscientious business minds available. Too much is at stake to have it any other way. Public hospitals need all the advantages of outstanding community leadership, and they must be free to act within statutory restraints to meet future demands.

Getting out of the business. Local governments that want to divest themselves of healthy community hospitals have a number of options available to them. They can contract the management of the hospital to a management services company while retaining ownership, sell the hospital outright to a for-profit hospital chain, or sell or transfer the hospital's ownership to a nonprofit corporation.

Selling a public hospital to a for-profit company often appeals to a local government because of the immediate sizable cash settlement and the acquisition of a new large taxpayer in the community.[6] The sale may include terms that require the purchaser to build a new hospital. These are all significant benefits to the community. But there may also be some costs. Hospital charges may have to be increased in order to enable the company to pay back its construction loan and earn a profit on its investment. Also, the company will have to pay taxes—an obligation that the former nonprofit hospital did not have. The only source of money for these new costs is patient revenues.

A local government may also sell or transfer the community hospital to a local nonprofit corporation or to another nonprofit hospital. The terms for payment, to be made from hospital revenues, could be arranged over a period of time. The hospital thus would have to generate revenues sufficient to pay for its purchase price, including interest. Also, even though a nonprofit corporation cannot earn a profit in the ordinary sense, it can earn, in addition to costs, revenues that are plowed back into future expansion of the hospital. Charges may increase if the hospital is taken over by a nonprofit corporation, but probably less than they would if a for-profit corporation took over. Also, if a nonprofit corporation owned the hospital, no proceeds would go to private owners and no revenues would leave the state. Finally, all management decisions would remain local.

One warning about transfer to a nonprofit corporation: It should be done while the hospital is still doing well financially. If the community waits until the hospital is in real financial trouble, the nonprofit strategy is not likely to work.

Increasing public support. If a local government decides to continue its hospital as a fully public facility, it may have to appropriate more public funds to the hospital. This need will increase as federal payments become less and less adequate to cover actual costs and as insurance companies and employers struggle to prevent further cost-shifting. To continue the level of services the community has come to expect, a hospital will need to have additional support, and unless one of the restructuring plans just described is adopted, the only source of such funds will be local taxes.

Aside from its possible effects on local taxes, meeting the local public hospital's needs with public moneys may be a self-defeating strategy. To the extent that this approach keeps the hospital in the political limelight (because it is a direct service of local government), the hospital will continue to be constrained from competing with other providers of health care and thereby becoming more efficient. All members of the community—including the medically indigent—may suffer if the local government continues to bail out an increasingly ailing public hospital. ●

6. It is not clear whether a North Carolina county may legally sell a public hospital. In this state a court test may ultimately be needed to settle this issue. If the courts find that operating a public hospital is a governmental function, selling the hospital may require a specific grant of authority from the General Assembly beyond the general authority given by G.S. 153A-176. See Southport v. Stanley, 125 N.C. 464, 34 S.E. 641 (1899); Wishart v. Lumberton, 254 N.C. 94, 118 S.E.2d 35 (1961). On the other hand, G.S. 160A-265 authorizes a city to sell any property whether or not it is used for governmental purposes. It can be argued that this statute applies to counties as well.

A hospital receives what it charges on about 50 per cent of its patients. For services to the other half, the hospital receives less than its actual cost of care. Some care is free.

Richard P. Calhoon

In memoriam

Richard P. Calhoon—professor emeritus in the School of Business Administration at UNC-Chapel Hill, former Chapel Hill alderman, and a frequent lecturer in the Institute of Government training courses—died on May 19.

In 1972, with the help of his colleague Tom Jerdee, Professor Calhoon began a three-phase study of supervisory training for North Carolina state and local government officials and employees. The study resulted in the preparation of a 24-hour "Coaching in Supervision" course published by the Institute of Government. The course has been used widely by federal, state, and local officials and was nationally recognized as one of the top fifty IPA training projects undertaken in the 1970s. The course contains insights gained from Professor Calhoon's private-sector experience, 33 years of college teaching, and service as an arbitrator.

Hundreds of North Carolina public officials and thousands of Carolina students have enjoyed his courses. During his retirement many public officials witnessed Professor Calhoon's skill in analyzing case situations, and they were both inspired by his sincerity, care, and concern for people and entertained by his hearty laugh and sense of humor.

Professor Calhoon came to the University in 1946 after personnel experience with Ansco, U.S. Rubber, and Kendall Mills in Charlotte. The first professor of personnel administration at the University, he was the author of eight books and several research publications and articles.

Public and private personnel administration and management are better in North Carolina and across the nation because of Dick's sensitivity, integrity, and service as a teacher.

—DBH

J. HARRY WEATHERLY

In memoriam

Harry Weatherly died on April 24 in Charlotte. Harry was the first appointed manager in both Guilford and Mecklenburg counties. He was widely regarded as the "dean" of county managers in North Carolina. Following graduation from the University of North Carolina in 1929, he worked for the Guilford County Roads Department and then served as Guilford County purchasing agent from 1931 until 1942. During those years *Popular Government* carried articles by him and contained many notes on the shortcuts and savings in purchasing initiated by him. Harry helped plan the first district schools for purchasing agents held by the Institute in 1938 and also taught in them.

When Harry was named Guilford County manager in 1942, only three other North Carolina counties had appointive managers. In the following years, many county commissioners heard Harry describe what a manager does, visited Guilford County, and asked the Guilford chairmen and board members what they thought of the manager plan. Evidently the visitors liked what they heard. When Harry retired in 1970, 38 of the state's 100 counties had county managers. Word of the manager plan's success continued to spread. Today, 87 counties have a manager.

Harry served as the teacher of both teachers and practitioners. Institute of Government staff members since the early 1930s have sought Harry's advice on nearly every area of county government. New county managers went to Harry to inquire about their role or for new ideas on saving tax funds. Experienced managers and other officials sought his advice and respected his opinions. At personal sacrifice and inconvenience and without remuneration he traveled to Chapel Hill and about the state to speak or consult with county officials interested in learning how to do their job better. His contribution to good government in North Carolina is enormous.

—DBH

Recent Publications of the Institute of Government

Index of Computer Hardware and Software in Use in North Carolina Local Governments. 1983. $6.00.

This publication contains information about the types of computer equipment, applications, software, and data processing arrangements that are used by local governments across North Carolina.

County Salaries in North Carolina. Compiled by Elizabeth Pace and Peggy Merris. 1983. $6.00.

This annual study, published since 1950, contains information on current salaries and personnel practices in all North Carolina counties. All major county positions are included as well as those of some assistants and deputies, and other positions in which county officials have expressed interest.

Business Taxation and Economic Development in North Carolina. By Charles D. Liner. 1983. $3.00.

An overview of the North Carolina tax system and the role that state and local government taxation plays in attracting or discouraging business investment. This is second in a series of papers on economic development in North Carolina.

Boards of Health in North Carolina—A Guidebook for Board Members. Revised Edition. Thomas W. Ross, rev. by Jacqueline B. Queen and Michael R. Smith. 1983. $5.00.

Explains North Carolina law in regard to local health departments and describes the duties of health department employees and the responsibilities of local boards of health. Discusses board liability.

Misdemeanors with Punishments Not Exceeding a Fine of Fifty Dollars or Imprisonment of Thirty Days. By Joan G. Brannon and Susan Milnor. 1983. $4.75.

Lists all misdemeanors punishable in North Carolina by a fine of $50 or 30 days' imprisonment for which magistrates may accept guilty pleas.

Chart of the Administrative Organization of North Carolina State Government. By Ann L. Sawyer. Fall 1982. $4.00.

This chart lists all agencies created by the State Constitution, statute, or executive order. It shows in table form the location of each agency or department within the executive, legislative, or judicial branch of government. It also provides an alphabetical index of agencies and other information, such as whether the Governor appoints the agency's members.

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Popular Government
(ISSN 0032-4515)
Institute of Government
Knapp Building 059A
The University of North Carolina at Chapel Hill
Chapel Hill, North Carolina 27514